



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

NH Route 25 Storage Realty Trust / Map 141, Lot 8

June 20, 2013

Applicant: 61 Venture LLC

P.O. Box 510

Moultonborough, NH 03254

Location: 61 Whittier Highway, Moultonborough, NH (Tax Map 141, Lot 8)

On June 5, 2013 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of NH Route 25 Storage Realty Trust (hereinafter referred to as the "Applicants" and/or "Owners") for a variance from Article VI Paragraph F.(6)g to permit parking at a distance of 3.0 feet to the property line where ten is required on their parcel located in the Commercial Zone A and Residential/Agricultural RA Zone.

Based on the application, and testimony given at the hearings, the Board hereby makes the following findings of fact:

- 1) The property is located on 61 Whittier Highway (Tax Map 141, Lot 8).
- 2) The applicant is the owner of record for the lot.
- 3) On June 5, 2013, Agent David M. Dolan requested to be placed on the ZBA agenda of June 19, 2013.
- 4) On June 5, 2013, the ZBA continued the Public Hearing to June 19, 2013.
- 5) Robert Stephens and Ken Bickford stepped down from the board for the hearing.
- 6) The applicant was represented at the Public Hearing by David M. Dolan of David M. Dolan Associates, PC.
- 7) David M. Dolan noted since the time the application was filed, the property has been transferred to 61 Venture, LLC.

- 8) The lot is located in both Commercial Zone A, and the Residential Agricultural (RA) Zoning District.
- 9) The lot is subject to two easements from Public Service New Hampshire and the New Hampshire Electric Cooperative.
- 10) A Special Exception was granted for the site in 2005.
- 11) A Site Plan and Site Plan Amendment were approved by the Planning Board in 2005 and 2008 respectfully.
- 12) No members of the public wished to speak during the public hearing.
- 13) Granting the Variance would not be contrary to the public interest as the location of the parking three feet from the lot line in the power line easement would not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public.
- 14) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request does not unduly, and in any marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives, which in this case is to try to prevent overcrowding and allow for adequate light, air and access. These objectives are still met with this proposal.
- 15) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit at all from a denial of the 3 ft. parking setback in this case, but the loss to the businesses would be great because of the present and potential parking demand.
- 16) Granting the Variance would not diminish the value of surrounding properties as the parking layout would be in line with the use and type of businesses in the neighborhood and not be different in character and it is in the power line easement.
- 17) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot shape (long and very narrow) and the encumbrance of two power line easements limited location and number of spaces despite the fact that the multi-tenant building had been approved with no commercial use limitations.
- 18) On June 19, 2013 the Zoning Board of Adjustment voted by a vote of five (5) in favor (Nolin, Zewski, Crowe, Hopkins, King) and none (0) opposed, to Grant the variance with the following conditions;
 1. That the existing gravel areas adjacent to the proposed parking be re-vegetated as per the plan submitted with the application.
 2. That the variance would not apply to parking space numbers 23-28, inclusive if the Planning Board does not grant the Conditional Use Permit to allow said spaces construction in the wetland buffer as those spaces would be subject to both a setback variance and a Conditional Use Permit to be allowed.

And to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for their review and approval for signing.

The Board of Adjustment, on July 17, 2013, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (3) in favor (Nolin, Zewski, Crowe), none (0) opposed.

The decision made to Approve the variance on June 19, 2013 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Russ Nolin
Vice Chairman, Zoning Board of Adjustment

Date 8/5/13